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HOUSE BILL 311

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Nathan P. Cote

AN ACT

RELATING TO EDUCATION; ENACTING THE INTERSTATE COMPACT ON  
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; CREATING THE  
MILITARY CHILDREN EDUCATION COMPACT STATE COUNCIL; PROVIDING  
POWERS AND DUTIES; PROVIDING COORDINATION AMONG STATES TO MEET  
THE EDUCATIONAL NEEDS OF MILITARY CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY  
FOR MILITARY CHILDREN--ENTERED INTO.--The "Interstate Compact  
on Educational Opportunity for Military Children" is enacted  
into law and entered into with all other jurisdictions legally  
joining therein in the form substantially as follows:

"INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY  
CHILDREN

ARTICLE 1

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1 PURPOSE

2 It is the purpose of the Interstate Compact on Educational  
3 Opportunity for Military Children to remove barriers to  
4 educational success imposed on children of military families  
5 because of frequent moves and deployment of their parents by:

6 A. facilitating the timely enrollment of children  
7 of military families and ensuring that they are not placed at a  
8 disadvantage due to difficulty in the transfer of education  
9 records from the previous school district or variations in  
10 entrance and age requirements;

11 B. facilitating the student placement process  
12 through which children of military families are not  
13 disadvantaged by variations in attendance requirements,  
14 scheduling, sequencing, grading, course content or assessment;

15 C. facilitating the qualification and eligibility  
16 for enrollment, educational programs and participation in  
17 extracurricular, academic, athletic and social activities;

18 D. facilitating the on-time graduation of children  
19 of military families;

20 E. providing for the promulgation and enforcement  
21 of administrative rules implementing the provisions of that  
22 compact;

23 F. providing for the uniform collection and sharing  
24 of information between and among member states, schools and  
25 military families under that compact;

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1 G. promoting coordination between that compact and  
2 other compacts affecting military children; and

3 H. promoting flexibility and cooperation between  
4 the educational system, parents and the student in order to  
5 achieve educational success for the student.

6 ARTICLE 2

7 DEFINITIONS

8 As used in the Interstate Compact on Educational  
9 Opportunity for Military Children:

10 A. "active duty" means full-time duty status in the  
11 active uniformed service of the United States, including  
12 members of the national guard and reserve on active duty orders  
13 pursuant to 10 U.S.C. Sections 1209 and 1211;

14 B. "children of military families" means  
15 school-aged children enrolled in kindergarten through twelfth  
16 grade in the household of an active duty member;

17 C. "compact commissioner" means the voting  
18 representative of each compacting state appointed pursuant to  
19 Article 8 of the Interstate Compact on Educational Opportunity  
20 for Military Children;

21 D. "deployment" means the period one month prior to  
22 the service members' departures from their home stations on  
23 military orders through six months after return to their home  
24 stations;

25 E. "education records" means records, files and

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1 data that are directly related to a student and maintained by a  
2 school or local education agency, including records  
3 encompassing all the material kept in a student's cumulative  
4 folder such as general identifying data, records of attendance  
5 and of academic work completed, records of achievement and  
6 results of evaluative tests, health data, disciplinary status,  
7 test protocols and individualized education programs;

8 F. "extracurricular activity" means a voluntary  
9 activity sponsored by a school or local education agency or an  
10 organization sanctioned by a local education agency.

11 Extracurricular activities include preparation for and  
12 involvement in public performances, contests, athletic  
13 competitions, demonstrations, displays and club activities;

14 G. "interstate commission" means the interstate  
15 commission on educational opportunity for military children  
16 that is created under Article 9 of the Interstate Compact on  
17 Educational Opportunity for Military Children;

18 H. "local education agency" means a public  
19 authority legally constituted by the state as an administrative  
20 agency to provide control of and direction for kindergarten  
21 through twelfth grade public educational institutions;

22 I. "member state" means a state that has enacted  
23 the Interstate Compact on Educational Opportunity for Military  
24 Children;

25 J. "military installation" means a base, camp,

1 post, station, yard, center or homeport facility for any ship  
2 or other activity under the jurisdiction of the United States  
3 department of defense, including any leased facility, that is  
4 located within any of the several states, the District of  
5 Columbia, the commonwealth of Puerto Rico, the United States  
6 Virgin Islands, Guam, American Samoa, the Northern Marianas  
7 Islands and any other United States territory. The term does  
8 not include any facility used primarily for civil works, rivers  
9 and harbors projects or flood control projects;

10 K. "non-member state" means a state that has not  
11 enacted the Interstate Compact on Educational Opportunity for  
12 Military Children;

13 L. "receiving state" means the state to which a  
14 child of a military family is sent, brought or caused to be  
15 sent or brought;

16 M. "rule" means a written statement by the  
17 interstate commission promulgated pursuant to Article 12 of the  
18 Interstate Compact on Educational Opportunity for Military  
19 Children that is of general applicability, implements,  
20 interprets or prescribes a policy or provision of that compact  
21 or an organizational, procedural or practice requirement of the  
22 interstate commission and has the force and effect of statutory  
23 law in a member state, and includes the amendment, repeal or  
24 suspension of an existing rule;

25 N. "sending state" means the state from which a

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1 child of a military family is sent, brought or caused to be  
2 sent or brought;

3 O. "state" means a state of the United States, the  
4 District of Columbia, the commonwealth of Puerto Rico, the  
5 United States Virgin Islands, Guam, American Samoa, the  
6 Northern Marianas Islands and any other United States  
7 territory;

8 P. "student" means the child of a military family  
9 for whom the local education agency receives public funding and  
10 who is formally enrolled in kindergarten through twelfth grade;

11 Q. "transition" means:

12 (1) the formal and physical process of  
13 transferring from school to school; or

14 (2) the period of time in which a student  
15 moves from one school in the sending state to another school in  
16 the receiving state;

17 R. "uniformed services" means the army, navy, air  
18 force, marine corps, coast guard and the commissioned corps of  
19 the national oceanic and atmospheric administration and United  
20 States public health service; and

21 S. "veteran" means a person who served in the  
22 uniformed services and who was discharged or released from the  
23 uniformed services under conditions other than dishonorable.

24 ARTICLE 3

25 APPLICABILITY

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1           A. Except as otherwise provided in Subsection B of  
2 this article, the Interstate Compact on Educational Opportunity  
3 for Military Children shall apply to the children of:

4                   (1) active duty members of the uniformed  
5 services, including members of the national guard and reserve  
6 on active duty orders pursuant to 10 U.S.C. Sections 1209 and  
7 1211;

8                   (2) members or veterans of the uniformed  
9 services who are severely injured and medically discharged or  
10 retired for a period of one year after medical discharge or  
11 retirement; and

12                   (3) members of the uniformed services who die  
13 on active duty or as a result of injuries sustained while on  
14 active duty and extending for a period of one year after death.

15           B. The provisions of the Interstate Compact on  
16 Educational Opportunity for Military Children shall only apply  
17 to local education agencies.

18           C. The provisions of the Interstate Compact on  
19 Educational Opportunity for Military Children shall not apply  
20 to the children of:

21                   (1) inactive members of the national guard and  
22 military reserves;

23                   (2) members of the uniformed services now  
24 retired, except as provided in Subsection A of this article;

25                   (3) veterans of the uniformed services, except

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1 as provided in Subsection A of this article; and

2 (4) other United States department of defense  
3 personnel and other federal agency civilian and contract  
4 employees not defined as active duty members of the uniformed  
5 services.

6 ARTICLE 4

7 EDUCATIONAL RECORDS AND ENROLLMENT

8 A. In the event that official education records  
9 cannot be released to the parents for the purpose of transfer,  
10 the custodian of the records in the sending state shall prepare  
11 and furnish to the parent a complete set of unofficial  
12 education records containing uniform information as determined  
13 by the interstate commission. Upon receipt of the unofficial  
14 education records by a school in the receiving state, the  
15 school shall enroll and appropriately place the student based  
16 on the information provided in the unofficial records pending  
17 validation by the official records, as quickly as possible.

18 B. Simultaneous with the enrollment and conditional  
19 placement of the student, the school in the receiving state  
20 shall request the student's official education record from the  
21 school in the sending state. Upon receipt of this request, the  
22 school in the sending state shall process and furnish the  
23 official education records to the school in the receiving state  
24 within ten days or within such time as is reasonably determined  
25 under the rules promulgated by the interstate commission.

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1 student's enrollment in the sending state school or educational  
2 assessments conducted at the school in the sending state if the  
3 courses are offered. Course placement includes honors,  
4 international baccalaureate, advanced placement, vocational,  
5 technical and career pathways courses. Continuing the  
6 student's academic program from the previous school and  
7 promoting placement in academically and career-challenging  
8 courses should be paramount when considering placement. This  
9 subsection does not preclude the school in the receiving state  
10 from performing subsequent evaluations to ensure appropriate  
11 placement and continued enrollment of the student in the  
12 courses.

13 B. The receiving state school shall initially honor  
14 placement of the student in educational programs based on  
15 current educational assessments conducted at the school in the  
16 sending state or participation or placement in like programs in  
17 the sending state. Such programs include gifted and talented  
18 programs and English as a second language. This subsection  
19 does not preclude the school in the receiving state from  
20 performing subsequent evaluations to ensure appropriate  
21 placement of the student.

22 C. In compliance with the federal requirements of  
23 the Individuals with Disabilities Education Act, 20 U.S.C.  
24 Section 1400 et seq., the receiving state shall initially  
25 provide comparable services to a student with disabilities

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1 based on the student's current individualized education  
2 program. In compliance with the requirements of Section 504 of  
3 the Rehabilitation Act, 29 U.S.C. Section 794, and with Title  
4 II of the Americans with Disabilities Act, 42 U.S.C. Sections  
5 12131-12165, the receiving state shall make reasonable  
6 accommodations and modifications to address the needs of  
7 incoming students with disabilities, subject to an existing 504  
8 or Title II plan, to provide the student with equal access to  
9 education. This subsection does not preclude the school in the  
10 receiving state from performing subsequent evaluations to  
11 ensure appropriate placement of the student.

12 D. Local education agency administrative officials  
13 shall have flexibility in waiving course or program  
14 prerequisites or other preconditions for placement in courses  
15 or programs offered under the jurisdiction of the local  
16 education agency.

17 E. A student whose parent or legal guardian is an  
18 active duty member of the uniformed services and has been  
19 called to duty for, is on leave from or has immediately  
20 returned from deployment to a combat zone or combat support  
21 posting shall be granted additional excused absences, at the  
22 discretion of the local education agency superintendent, to  
23 visit with the student's parent or legal guardian.

24 ARTICLE 6

25 ELIGIBILITY

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1           A. Special power of attorney, relative to the  
2 guardianship of a child of a military family and executed under  
3 applicable law, shall be sufficient for the purposes of  
4 enrollment and all other actions requiring parental  
5 participation and consent.

6           B. A local education agency shall be prohibited  
7 from charging local tuition to a military child who is in  
8 transition and is placed in the care of a noncustodial parent  
9 or other person standing in loco parentis who lives in a  
10 jurisdiction other than that of the custodial parent.

11           C. A military child who is in transition and is  
12 placed in the care of a noncustodial parent or other person  
13 standing in loco parentis who lives in a jurisdiction other  
14 than that of the custodial parent may continue to attend the  
15 school in which the child was enrolled while residing with the  
16 custodial parent.

17           D. State and local education agencies shall  
18 facilitate the opportunity for transitioning military  
19 children's inclusion in extracurricular activities, regardless  
20 of application deadlines, to the extent they are otherwise  
21 qualified.

22                                   ARTICLE 7  
23                                   GRADUATION

24           In order to facilitate the on-time graduation of children  
25 of military families, states and local education agencies shall

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1 incorporate the following procedures:

2           A. local education agency administrative officials  
3 shall waive specific courses required for graduation if similar  
4 course work has been satisfactorily completed in another local  
5 education agency or shall provide reasonable justification for  
6 denial. If a waiver is not granted to a student who would  
7 qualify to graduate from the sending school, the local  
8 education agency shall provide an alternative means of  
9 acquiring required coursework so that graduation may occur on  
10 time;

11           B. receiving states shall accept exit or  
12 end-of-course exams required for graduation from the sending  
13 state, national norm-referenced achievement tests or  
14 alternative testing in lieu of testing requirements for  
15 graduation in the receiving state. In the event the  
16 alternatives in this subsection and Subsection A of this  
17 article cannot be accommodated by the receiving state for a  
18 student transferring in the student's senior year, then the  
19 provisions of Subsection C of this article shall apply; and

20           C. if a military student transferring at the  
21 beginning of or during the military student's senior year is  
22 ineligible to graduate from the receiving local education  
23 agency after all alternatives have been considered, the sending  
24 and receiving local education agencies shall ensure the receipt  
25 of a diploma from the sending local education agency if the

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1 student meets the graduation requirements of the sending local  
2 education agency. In the event that one of the states in  
3 question is not a member of the Interstate Compact on  
4 Educational Opportunity for Military Children, the member state  
5 shall use best efforts to facilitate the on-time graduation of  
6 the student in accordance with Subsections A and B of this  
7 article.

## 8 ARTICLE 8

### 9 STATE COORDINATION

10 A. Each member state shall, through the creation of  
11 a state council or use of an existing body or board, provide  
12 for the coordination among its agencies of government, local  
13 education agencies and military installations concerning the  
14 state's participation in and compliance with the Interstate  
15 Compact on Educational Opportunity for Military Children and  
16 interstate commission activities. While each member state may  
17 determine the membership of its own state council, its  
18 membership must include: the secretary of public education,  
19 the superintendent of a school district with a high  
20 concentration of military children, a representative from a  
21 military installation, one representative each from the  
22 legislative and executive branches of government and other  
23 offices and stakeholder groups the state council deems  
24 appropriate. A member state that does not have a school  
25 district deemed to contain a high concentration of military

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1 children may appoint a superintendent from another school  
2 district to represent local education agencies on the state  
3 council.

4 B. The state council of each member state shall  
5 appoint or designate a military family education liaison to  
6 assist military families and the state in facilitating the  
7 implementation of the Interstate Compact on Educational  
8 Opportunity for Military Children.

9 C. The compact commissioner responsible for the  
10 administration and management of the state's participation in  
11 the Interstate Compact on Educational Opportunity for Military  
12 Children shall be appointed by the governor or as otherwise  
13 determined by each member state.

14 D. The compact commissioner and the military family  
15 education liaison designated in this article shall be ex-  
16 officio nonvoting members of the state council, unless either  
17 is already a full voting member of the state council.

18 ARTICLE 9

19 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY  
20 CHILDREN

21 The member states hereby create the "interstate commission  
22 on educational opportunity for military children". The  
23 activities of the interstate commission are the formation of  
24 public policy and are a discretionary state function. The  
25 interstate commission shall:

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1           A. be a body corporate and joint agency of the  
2 member states and shall have all the responsibilities, powers  
3 and duties set forth in the Interstate Compact on Educational  
4 Opportunity for Military Children, and such additional powers  
5 as may be conferred upon it by a subsequent concurrent action  
6 of the respective legislatures of the member states in  
7 accordance with the terms of that compact;

8           B. consist of one voting representative from each  
9 member state who shall be that state's compact commissioner.

10                 (1) Each member state represented at a meeting  
11 of the interstate commission is entitled to one vote.

12                 (2) A majority of the total member states  
13 shall constitute a quorum for the transaction of business,  
14 unless a larger quorum is required by the bylaws of the  
15 interstate commission.

16                 (3) A representative shall not delegate a vote  
17 to another member state. In the event the compact commissioner  
18 is unable to attend a meeting of the interstate commission, the  
19 governor or state council may delegate voting authority to  
20 another person from the person's state for a specified meeting.

21                 (4) The bylaws may provide for meetings of the  
22 interstate commission to be conducted by telecommunication or  
23 electronic communication;

24           C. consist of ex-officio, nonvoting representatives  
25 who are members of interested organizations. The ex-officio

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1 members, as defined in the bylaws, may include members of the  
2 representative organizations of military family advocates,  
3 local education agency officials, parent and teacher groups,  
4 the United States department of defense, the education  
5 commission of the states, the interstate agreement on the  
6 qualification of educational personnel and other interstate  
7 compacts affecting the education of children of military  
8 members;

9 D. meet at least once each calendar year. The  
10 chair may call additional meetings and, upon the request of a  
11 simple majority of the member states, shall call additional  
12 meetings;

13 E. establish an executive committee whose members  
14 shall include the officers of the interstate commission and  
15 such other members of the interstate commission as determined  
16 by the bylaws. Members of the executive committee shall serve  
17 a one-year term. Members of the executive committee shall be  
18 entitled to one vote each. The executive committee shall have  
19 the power to act on behalf of the interstate commission, with  
20 the exception of rulemaking, during periods when the interstate  
21 commission is not in session. The executive committee shall  
22 oversee the day-to-day activities of the administration of the  
23 compact, including enforcement and compliance with the  
24 provisions of the compact, its bylaws and rules and other such  
25 duties as deemed necessary. The United States department of

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1 defense shall serve as an ex-officio nonvoting member of the  
2 executive committee;

3 F. establish bylaws and rules that provide for  
4 conditions and procedures under which the interstate commission  
5 shall make its information and official records available to  
6 the public for inspection or copying. The interstate  
7 commission may exempt from disclosure information or official  
8 records to the extent they would adversely affect personal  
9 privacy rights or proprietary interests;

10 G. give public notice of all meetings and all  
11 meetings shall be open to the public, except as set forth in  
12 the rules or as otherwise provided in the Interstate Compact on  
13 Educational Opportunity for Military Children. The interstate  
14 commission and its committees may close a meeting, or a portion  
15 of a meeting, if it determines by a two-thirds' vote that an  
16 open meeting would be likely to:

17 (1) relate solely to the interstate  
18 commission's internal personnel practices and procedures;

19 (2) disclose matters specifically exempted  
20 from disclosure by federal and state statute;

21 (3) disclose trade secrets or commercial or  
22 financial information that is privileged or confidential;

23 (4) involve accusing a person of a crime or  
24 formally censuring a person;

25 (5) disclose information of a personal nature

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1 if the disclosure would constitute a clearly unwarranted  
2 invasion of personal privacy;

3 (6) disclose investigative records compiled  
4 for law enforcement purposes; or

5 (7) specifically relate to the interstate  
6 commission's participation in a civil action or other legal  
7 proceeding;

8 H. cause its legal counsel or designee to certify  
9 that a meeting may be closed and shall reference each relevant  
10 exemptible provision for any meeting, or portion of a meeting,  
11 that is closed pursuant to this subsection. The interstate  
12 commission shall keep minutes that shall fully and clearly  
13 describe all matters discussed in a meeting and shall provide a  
14 full and accurate summary of actions taken, and the reasons for  
15 the actions, including a description of the views expressed and  
16 the record of a roll call vote. All documents considered in  
17 connection with an action shall be identified in the minutes.  
18 All minutes and documents of a closed meeting shall remain  
19 under seal, subject to release by a majority vote of the  
20 interstate commission;

21 I. collect standardized data concerning the  
22 educational transition of the children of military families  
23 under the Interstate Compact on Educational Opportunity for  
24 Military Children as directed through its rules, which shall  
25 specify the data to be collected, the means of collection and

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1 data exchange and reporting requirements. The methods of data  
2 collection, exchange and reporting shall, insofar as is  
3 reasonably possible, conform to current technology and  
4 coordinate its information functions with the appropriate  
5 custodian of records as identified in the bylaws and rules; and

6 J. create a process that permits military  
7 officials, education officials and parents to inform the  
8 interstate commission if and when there are alleged violations  
9 of the Interstate Compact on Educational Opportunity for  
10 Military Children or its rules or when issues subject to the  
11 jurisdiction of the compact or its rules are not addressed by  
12 the state or local education agency. This subsection shall not  
13 be construed to create a private right of action against the  
14 interstate commission or any member state.

## 15 ARTICLE 10

### 16 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

17 The interstate commission may:

- 18 A. provide for dispute resolution among member  
19 states;
- 20 B. promulgate rules and take all necessary actions  
21 to effect the goals, purposes and obligations as enumerated in  
22 the Interstate Compact on Educational Opportunity for Military  
23 Children. The rules shall have the force and effect of  
24 statutory law and shall be binding in the compact states to the  
25 extent and in the manner provided in that compact;

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1 C. issue, upon request of a member state, advisory  
2 opinions concerning the meaning or interpretation of the  
3 interstate compact and its bylaws, rules and actions;

4 D. enforce compliance with the compact provisions,  
5 the rules promulgated by the interstate commission and the  
6 bylaws, using all necessary and proper means, including the use  
7 of judicial process;

8 E. establish and maintain offices that shall be  
9 located within one or more of the member states;

10 F. purchase and maintain insurance and bonds;

11 G. borrow, accept, hire or contract for services of  
12 personnel;

13 H. establish and appoint committees, including an  
14 executive committee as required by Subsection E of Article 9 of  
15 the Interstate Compact on Educational Opportunity for Military  
16 Children, which shall have the power to act on behalf of the  
17 interstate commission in carrying out its powers and duties  
18 under that compact;

19 I. elect or appoint officers, attorneys, employees,  
20 agents or consultants and fix their compensation, define their  
21 duties and determine their qualifications;

22 J. establish the interstate commission's personnel  
23 policies and programs relating to conflicts of interest, rates  
24 of compensation and qualifications of personnel;

25 K. accept donations and grants of money, equipment,

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1 supplies, materials and services and receive, use and dispose  
2 of them;

3 L. lease, purchase, accept contributions or  
4 donations of, or otherwise own, hold, improve or use any  
5 property, real, personal or mixed;

6 M. sell, convey, mortgage, pledge, lease, exchange,  
7 abandon or otherwise dispose of any property, real, personal or  
8 mixed;

9 N. establish a budget and make expenditures;

10 O. adopt a seal and bylaws governing the management  
11 and operation of the interstate commission;

12 P. report annually to the legislatures, governors,  
13 judiciaries and state councils of the member states concerning  
14 the activities of the interstate commission during the  
15 preceding year. The reports shall also include any  
16 recommendations that may have been adopted by the interstate  
17 commission;

18 Q. coordinate education, training and public  
19 awareness regarding the Interstate Compact on Educational  
20 Opportunity for Military Children, its implementation and  
21 operation for officials and parents involved in such activity;

22 R. establish uniform standards for the reporting,  
23 collecting and exchanging of data;

24 S. maintain corporate books and records in  
25 accordance with the bylaws;

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1 (5) establishing the titles and  
2 responsibilities of the officers and staff of the interstate  
3 commission;

4 (6) providing a mechanism for concluding the  
5 operations of the interstate commission and the return of  
6 surplus funds that may exist upon the termination of that  
7 compact after paying and reserving all of its debts and  
8 obligations; and

9 (7) providing start-up rules for initial  
10 administration of the Interstate Compact on Educational  
11 Opportunity for Military Children.

12 B. The interstate commission shall, by a majority  
13 of the members, elect annually from among its members a chair,  
14 a vice chair and a treasurer, each of whom shall have such  
15 authority and duties as may be specified in the bylaws. The  
16 chair or, in the chair's absence or disability, the vice chair,  
17 shall preside at all meetings of the interstate commission.  
18 The officers so elected shall serve without compensation or  
19 remuneration from the interstate commission; provided that,  
20 subject to the availability of budgeted funds, the officers  
21 shall be reimbursed for ordinary and necessary costs and  
22 expenses incurred by them in the performance of their  
23 responsibilities as officers of the interstate commission.

24 C. The executive committee shall have such  
25 authority and duties as may be set forth in the bylaws,

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1 including:

2 (1) managing the affairs of the interstate  
3 commission in a manner consistent with the bylaws and purposes  
4 of the interstate commission;

5 (2) overseeing an organizational structure  
6 within, and appropriate procedures for, the interstate  
7 commission to provide for the creation of rules, operating  
8 procedures and administrative and technical support functions;  
9 and

10 (3) planning, implementing and coordinating  
11 communications and activities with other state, federal and  
12 local government organizations in order to advance the goals of  
13 the interstate commission.

14 D. The executive committee may, subject to the  
15 approval of the interstate commission, appoint or retain an  
16 executive director for such period, upon such terms and  
17 conditions and for such compensation as the interstate  
18 commission may deem appropriate. The executive director shall  
19 serve as secretary to the interstate commission, but shall not  
20 be a member of the interstate commission. The executive  
21 director shall hire and supervise such other persons as may be  
22 authorized by the interstate commission.

23 E. The interstate commission's executive director  
24 and its employees shall be immune from suit and liability,  
25 either personally or in their official capacity, for a claim

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1 for damage to or loss of property or personal injury or other  
2 civil liability caused or arising out of or relating to an  
3 actual or alleged act, error or omission that occurred, or that  
4 such person had a reasonable basis for believing occurred,  
5 within the scope of interstate commission employment, duties or  
6 responsibilities; provided that such person shall not be  
7 protected from suit or liability for damage, loss, injury or  
8 liability caused by the intentional or willful and wanton  
9 misconduct of such person.

10 F. The liability of the interstate commission's  
11 executive director and employees or interstate commission  
12 representatives, acting within the scope of such person's  
13 employment or duties for acts, errors or omissions occurring  
14 within such person's state, may not exceed the limits of  
15 liability set forth under the constitution and laws of that  
16 state for state officials, employees and agents. The  
17 interstate commission is considered to be an instrumentality of  
18 the states for the purposes of any such action. Nothing in  
19 this subsection shall be construed to protect such person from  
20 suit or liability for damage, loss, injury or liability caused  
21 by the intentional or willful and wanton misconduct of the  
22 person.

23 G. The interstate commission shall defend the  
24 executive director and its employees and, subject to the  
25 approval of the attorney general or other appropriate legal

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1 counsel of the member state represented by an interstate  
2 commission representative, shall defend the interstate  
3 commission representative in any civil action seeking to impose  
4 liability arising out of an actual or alleged act, error or  
5 omission that occurred within the scope of interstate  
6 commission employment, duties or responsibilities, or that the  
7 defendant had a reasonable basis for believing occurred within  
8 the scope of interstate commission employment, duties or  
9 responsibilities, provided that the actual or alleged act,  
10 error or omission did not result from intentional or willful  
11 and wanton misconduct on the part of the person.

12 H. To the extent not covered by the state involved,  
13 a member state or the interstate commission, the  
14 representatives or employees of the interstate commission shall  
15 be held harmless in the amount of a settlement or judgment,  
16 including attorney fees and costs, obtained against such  
17 persons arising out of an actual or alleged act, error or  
18 omission that occurred within the scope of interstate  
19 commission employment, duties or responsibilities, or that such  
20 persons had a reasonable basis for believing occurred within  
21 the scope of interstate commission employment, duties or  
22 responsibilities, provided that the actual or alleged act,  
23 error or omission did not result from intentional or willful  
24 and wanton misconduct on the part of such persons.

25 ARTICLE 12

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1                   RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

2                   A. The interstate commission shall promulgate  
3 reasonable rules in order to effectively and efficiently  
4 achieve the purposes of the Interstate Compact on Educational  
5 Opportunity for Military Children. If the interstate  
6 commission exercises its rulemaking authority in a manner that  
7 is beyond the scope of the purposes of that compact, or the  
8 powers granted under that compact, then such an action by the  
9 interstate commission shall be invalid and have no force or  
10 effect.

11                  B. Rules shall be made pursuant to a rulemaking  
12 process that substantially conforms to the "Model State  
13 Administrative Procedure Act" (1981), Uniform Laws Annotated,  
14 Vol. 15, p.1 (2000) as amended, as may be appropriate to the  
15 operations of the interstate commission.

16                  C. Not later than thirty days after the date a rule  
17 is promulgated, any person may file a petition for judicial  
18 review of the rule; provided that the filing of the petition  
19 shall not stay or otherwise prevent the rule from becoming  
20 effective unless the court finds that the petitioner has a  
21 substantial likelihood of success. The court shall give  
22 deference to the actions of the interstate commission  
23 consistent with applicable law and shall not find the rule to  
24 be unlawful if the rule represents a reasonable exercise of the  
25 interstate commission's authority.

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1 intervene in the proceeding for all purposes. Failure to  
2 provide service of process to the interstate commission shall  
3 render a judgment or order void as to the interstate  
4 commission, the Interstate Compact on Educational Opportunity  
5 for Military Children or promulgated rules.

6 D. If the interstate commission determines that a  
7 member state has defaulted in the performance of its  
8 obligations or responsibilities under the Interstate Compact on  
9 Educational Opportunity for Military Children or the bylaws or  
10 promulgated rules, the interstate commission shall:

11 (1) provide written notice to the defaulting  
12 state and other member states of the nature of the default, the  
13 means of curing the default and any action taken by the  
14 interstate commission. The interstate commission shall specify  
15 the means by which the defaulting state shall cure its default;  
16 and

17 (2) provide remedial training and specific  
18 technical assistance regarding the default.

19 E. If the defaulting state fails to cure the  
20 default, the defaulting state shall be terminated from the  
21 Interstate Compact on Educational Opportunity for Military  
22 Children upon an affirmative vote of a majority of the member  
23 states and all rights, privileges and benefits conferred by  
24 that compact shall be terminated from the effective date of  
25 termination. A cure of the default does not relieve the

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1 offending state of obligations or liabilities incurred during  
2 the period of the default.

3 F. Suspension or termination of membership in the  
4 Interstate Compact on Educational Opportunity for Military  
5 Children shall be imposed only after all other means of  
6 securing compliance have been exhausted. Notice of intent to  
7 suspend or terminate shall be given by the interstate  
8 commission to the governor, the majority and minority leaders  
9 of the defaulting state's legislature and each of the member  
10 states.

11 G. The state that has been suspended or terminated  
12 is responsible for all assessments, obligations and liabilities  
13 incurred through the effective date of suspension or  
14 termination, including obligations the performance of which  
15 extends beyond the effective date of suspension or termination.

16 H. The interstate commission shall not bear any  
17 costs relating to any state that has been found to be in  
18 default or that has been suspended or terminated from the  
19 Interstate Compact on Educational Opportunity for Military  
20 Children, unless otherwise mutually agreed upon in writing  
21 between the interstate commission and the defaulting state.

22 I. The defaulting state may appeal the action of  
23 the interstate commission by petitioning the United States  
24 district court for the District of Columbia or the federal  
25 district where the interstate commission has its principal

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1 offices. The prevailing party shall be awarded all costs of  
2 such litigation, including reasonable attorney fees.

3 J. The interstate commission shall attempt, upon  
4 the request of a member state, to resolve disputes that are  
5 subject to the Interstate Compact on Educational Opportunity  
6 for Military Children and that may arise among member states  
7 and between member and non-member states.

8 K. The interstate commission shall promulgate a  
9 rule providing for both mediation and binding dispute  
10 resolution for disputes as appropriate.

11 L. The interstate commission, in the reasonable  
12 exercise of its discretion, shall enforce the provisions and  
13 rules of the Interstate Compact on Educational Opportunity for  
14 Military Children.

15 M. The interstate commission may, by majority vote  
16 of the members, initiate legal action in the United States  
17 district court for the District of Columbia or, at the  
18 discretion of the interstate commission, in the federal  
19 district where the interstate commission has its principal  
20 offices to enforce compliance with the provisions of the  
21 Interstate Compact on Educational Opportunity for Military  
22 Children and its promulgated rules and bylaws against a member  
23 state in default. The relief sought may include both  
24 injunctive relief and damages. In the event judicial  
25 enforcement is necessary, the prevailing party shall be awarded

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1 all costs of such litigation, including reasonable attorney  
2 fees.

3 N. The remedies in the Interstate Compact on  
4 Educational Opportunity for Military Children shall not be the  
5 exclusive remedies of the interstate commission. The  
6 interstate commission may avail itself of any other remedies  
7 available under state law or the regulation of a profession.

8 ARTICLE 14

9 FINANCING OF THE INTERSTATE COMMISSION

10 A. The interstate commission shall pay or provide  
11 for the payment of the reasonable expenses of its  
12 establishment, organization and ongoing activities.

13 B. The interstate commission may levy on and  
14 collect an annual assessment from each member state to cover  
15 the cost of the operations and activities of the interstate  
16 commission and its staff, which must be in a total amount  
17 sufficient to cover the interstate commission's annual budget  
18 as approved each year. The aggregate annual assessment amount  
19 shall be allocated based upon a formula to be determined by the  
20 interstate commission, which shall promulgate a rule binding  
21 upon all member states.

22 C. The interstate commission shall not incur  
23 obligations of any kind prior to securing the funds adequate to  
24 meet the obligations; nor shall the interstate commission  
25 pledge the credit of any of the member states, except by and

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1 with the authority of the member state.

2 D. The interstate commission shall keep accurate  
3 accounts of all receipts and disbursements. The receipts and  
4 disbursements of the interstate commission shall be subject to  
5 the audit and accounting procedures established under its  
6 bylaws. However, all receipts and disbursements of funds  
7 handled by the interstate commission shall be audited yearly by  
8 a certified or licensed public accountant, and the report of  
9 the audit shall be included in and become part of the annual  
10 report of the interstate commission.

11 ARTICLE 15

12 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

13 A. Any state is eligible to become a member state.

14 B. The Interstate Compact on Educational  
15 Opportunity for Military Children shall become effective and  
16 binding upon legislative enactment of that compact into law by  
17 no less than ten of the states. The effective date shall be no  
18 earlier than December 1, 2007. Thereafter, it shall become  
19 effective and binding as to any other member state upon  
20 enactment of that compact into law by that state. The  
21 governors of non-member states or their designees shall be  
22 invited to participate in the activities of the interstate  
23 commission on a nonvoting basis prior to adoption of that  
24 compact by all states.

25 C. The interstate commission may propose amendments

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1 to the Interstate Compact on Educational Opportunity for  
2 Military Children for enactment by the member states. No  
3 amendment shall become effective and binding upon the  
4 interstate commission and the member states unless and until it  
5 is enacted into law by unanimous consent of the member states.

6 ARTICLE 16

7 WITHDRAWAL AND DISSOLUTION

8 A. Once effective, the Interstate Compact on  
9 Educational Opportunity for Military Children shall continue in  
10 force and remain binding upon each and every member state;  
11 provided that a member state may withdraw from that compact by  
12 specifically repealing the statute that enacted that compact  
13 into law.

14 B. Withdrawal from the Interstate Compact on  
15 Educational Opportunity for Military Children shall be by the  
16 enactment of a statute repealing that compact. The withdrawal  
17 shall not take effect until one year after the effective date  
18 of the statute repealing that compact and until written notice  
19 of the withdrawal has been given by the withdrawing state to  
20 the governor of each other member jurisdiction.

21 C. The withdrawing state shall immediately notify  
22 the chair of the interstate commission in writing upon the  
23 introduction of legislation repealing the Interstate Compact on  
24 Educational Opportunity for Military Children in the  
25 withdrawing state. The interstate commission shall notify the

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1 other member states of the withdrawing state's intent to  
2 withdraw within sixty days of its receipt of the notice.

3 D. The withdrawing state is responsible for all  
4 assessments, obligations and liabilities incurred on its behalf  
5 through the effective date of withdrawal, including obligations  
6 the performance of which extend beyond the effective date of  
7 withdrawal.

8 E. Reinstatement following withdrawal of a member  
9 state shall occur upon the withdrawing state reenacting the  
10 Interstate Compact on Educational Opportunity for Military  
11 Children or upon such later date as determined by the  
12 interstate commission.

13 F. The Interstate Compact on Educational  
14 Opportunity for Military Children shall dissolve effective upon  
15 the date of the withdrawal or default of the member state that  
16 reduces the membership in that compact to one member state.

17 G. Upon the dissolution of the Interstate Compact  
18 on Educational Opportunity for Military Children, the compact  
19 becomes null and void and shall be of no further force or  
20 effect, and the business and affairs of the interstate  
21 commission shall be concluded and surplus funds shall be  
22 distributed in accordance with the bylaws.

23 ARTICLE 17

24 SEVERABILITY AND CONSTRUCTION

25 A. The provisions of the Interstate Compact on

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1 Educational Opportunity for Military Children shall be  
2 severable, and if any phrase, clause, sentence or provision is  
3 deemed unenforceable, the remaining provisions of that compact  
4 shall be enforceable.

5 B. The provisions of the Interstate Compact on  
6 Educational Opportunity for Military Children shall be  
7 liberally construed to effectuate its purposes.

8 C. Nothing in the Interstate Compact on Educational  
9 Opportunity for Military Children shall be construed to  
10 prohibit the applicability of other interstate compacts to  
11 which the states are members.

12 ARTICLE 18

13 BINDING EFFECT OF COMPACT AND OTHER LAWS

14 A. Nothing in the Interstate Compact on Educational  
15 Opportunity for Military Children prevents the enforcement of  
16 any other law of a member state that is not inconsistent with  
17 that compact.

18 B. All member states' laws conflicting with the  
19 Interstate Compact on Educational Opportunity for Military  
20 Children are superseded to the extent of the conflict.

21 C. All lawful actions of the interstate commission,  
22 including all rules and bylaws promulgated by the interstate  
23 commission, are binding upon the member states.

24 D. All agreements between the interstate commission  
25 and the member states are binding in accordance with their

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1 terms.

2 E. In the event any provision of the Interstate  
3 Compact on Educational Opportunity for Military Children  
4 exceeds the constitutional limits imposed on the legislature of  
5 any member state, such provision shall be ineffective to the  
6 extent of the conflict with the constitutional provision in  
7 question in that member state."

8 Section 2. MILITARY CHILDREN EDUCATION COMPACT STATE  
9 COUNCIL, MILITARY FAMILY EDUCATION LIAISON AND COMPACT  
10 COMMISSIONER.--

11 A. The "military children education compact state  
12 council" is created to provide for the coordination among state  
13 agencies, local education agencies and military installations  
14 concerning the state's participation in and compliance with the  
15 Interstate Compact on Educational Opportunity for Military  
16 Children.

17 B. Notwithstanding Subsection A of Article 8 of the  
18 Interstate Compact on Educational Opportunity for Military  
19 Children, the military children education compact state council  
20 shall include the following members:

21 (1) the secretary of public education;

22 (2) a superintendent of a public school  
23 district with a high concentration of military children  
24 appointed by the governor;

25 (3) a representative from a military

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1 installation appointed by the governor;

2 (4) one representative from the executive  
3 branch of government appointed by the governor; and

4 (5) representatives from other offices and  
5 stakeholder groups that the state council deems appropriate.

6 C. The military children education compact state  
7 council shall designate a "military family education liaison"  
8 to assist military families and the state in facilitating the  
9 implementation of the Interstate Compact on Educational  
10 Opportunity for Military Children. The military family  
11 education liaison shall serve as an ex-officio nonvoting member  
12 of the military children education compact state council,  
13 unless the person designated as the liaison is already a voting  
14 member of the council.

15 D. The governor shall appoint a compact  
16 commissioner to administer the Interstate Compact on  
17 Educational Opportunity for Military Children in New Mexico and  
18 to represent the state on the interstate commission on  
19 educational opportunity for military children. The compact  
20 commissioner shall serve as an ex-officio nonvoting member of  
21 the military children education compact state council, unless  
22 the person appointed as the compact commissioner is already a  
23 voting member of the council.

24 E. Members of the military children education  
25 compact state council shall not receive per diem and mileage or

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1 other compensation, perquisite or allowance.

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